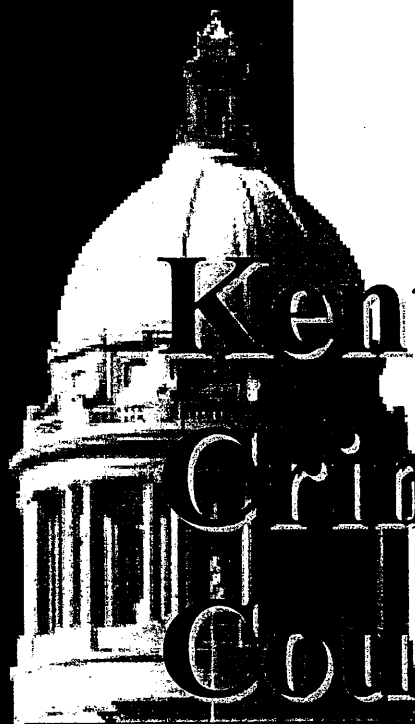


*An Interim Report*  
*July 1999*



# Kentucky Criminal Justice Council:

**Activities,  
Findings and  
Recommendations**



# FOREWORD

Dear Policymaker:

**A**s Secretary of the Justice Cabinet and ex officio Chair of the Kentucky Criminal Justice Council, I am pleased to submit this interim report containing the first recommendations of the Council in response to the legislative mandates set forth in HB 455 (KRS 15A.040). As you will note, this report is being submitted as an interim report since the Council will continue meeting over the coming months and anticipates that further recommendations will be offered along with refinements to the proposals included within this report.

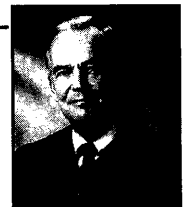
I am pleased to note that the Council and its seven committees have gotten off to an exceptional start with an excellent record of attendance and participation by members. In addition to laying a sound organizational foundation, the Council has launched a number of short- and long-term initiatives that will ultimately provide important statewide data and information to enhance the development of criminal justice policy in the Commonwealth. These initiatives as well as the start-up activity of the Council will be described in the pages that follow.

Although it is a new entity, the Kentucky Criminal Justice Council has demonstrated an ability to work through difficult issues, come to consensus and develop cohesion as a systemic planning body. We look forward to working closely with the Interim Committee on Judiciary and the Office of the Governor as well as state and local criminal justice agencies in preparation for the 2000 session of the Kentucky General Assembly. We also look forward to the challenges that lie ahead in our efforts to improve the administration of justice within the Commonwealth of Kentucky.



Secretary Robert F. Stephens  
Chair

July 1, 1999



# KENTUCKY CRIMINAL JUSTICE COUNCIL

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**The Honorable Robert F. Stephens**, Chair  
Secretary, Kentucky Justice Cabinet

**The Honorable Les Abramson**, Professor  
Louis D. Brandeis School of Law  
University of Louisville

**Chief Richard Burkhardt**  
Kentucky Association of Chiefs of Police

**Pat Byron**  
Crime Victim

**The Honorable A. B. Chandler III**  
Attorney General

**Dr. Gary Cordner**, Dean  
College of Law Enforcement  
Eastern Kentucky University

**Rep. Jesse Crenshaw**  
77th House District

**The Honorable Amy Dougherty**  
Justice Fellowship

**The Honorable Bill Fortune**, Professor  
University of Kentucky College of Law

**Gary Gilkison**  
Kentucky Jailers Association

**The Honorable Judge William Harris**  
49<sup>th</sup> Judicial Circuit

**The Honorable Marty Huelsmann**, Professor  
Salmon P. Chase College of Law  
Northern Kentucky University

**The Honorable Cicely Lambert**, Director  
Administrative Office of the Courts

**The Honorable Justice Joseph E. Lambert**  
Chief Justice/Kentucky Supreme Court

**Carol E. Jordan**, Executive Director  
Governor's Office of Child Abuse and  
Domestic Violence Services

**The Honorable Judge William Knopf**  
4th Appellate District  
Kentucky Court of Appeals

**Gary Lawson**  
Kentucky Sheriff's Association

**The Honorable Ernie Lewis**  
Public Advocate

**Janice Marshall**  
Kentucky Association of Circuit Court Clerks

**Debra Miller**, Director  
Kentucky Youth Advocates, Inc.

**Sen. Gerald Neal**  
33rd Senatorial District

**The Honorable Phil Patton**,  
Commonwealth's Attorney/43rd Judicial District  
Prosecutors Advisory Council

**Commissioner Gary Rose**  
Kentucky State Police

**Martin Scott, Jr.**  
Kentucky State Lodge  
Fraternal Order of the Police

**The Honorable Mark Stanziano**  
Kentucky Association of  
Criminal Defense Lawyers

**The Honorable Judge Megan Thornton**  
22nd Judicial District

**Aldona Valicenti**  
Chief Information Officer/Office of the Governor

**Rep. Rob Wilkey**  
22nd House District

**Sen. David Williams**  
16th Senatorial District

# EXECUTIVE SUMMARY

Crime rates across the country and the Commonwealth have shown a marked decrease over recent years.<sup>1</sup> Notwithstanding those decreases, concerns about crime continue to grip Kentuckians, especially those personally victimized by violent crime every year. The ability of Kentucky criminal justice council professionals to attend to those concerns and to substantively improve Kentucky's law enforcement and court systems has been hampered by lack of a formalized mechanism for criminal justice planning.

In response to continuing public concerns regarding the level of crime and in recognition of the complex challenges facing the state's criminal justice system in the coming years, Governor Patton and the 1998 General Assembly proposed and passed comprehensive criminal justice reform legislation (HB 455). Based upon the strong recommendation of the Governor's Criminal Justice Response Team, a central feature of that reform included the establishment of the Kentucky Criminal Justice Council.

The Kentucky Criminal Justice Council was charged with long-range planning and making recommendations to the Governor and General Assembly on criminal justice policy to ultimately improve the efficiency of the criminal justice system; to improve the quality of justice; and to raise the level of public confidence in the justice system.

During the legislative process, a number of specific issues were assigned to the new Council for comprehensive study and recommendations. By creating a neutral forum for key criminal justice stakeholders to discuss these issues, the Council can facilitate a better understanding of the nature of crime in the different regions of the state; promote the development of clearer goals and priorities; improve coordination among the components of the justice system; and promote effective utilization of limited resources.

Since the size of the criminal justice workload is directly related to the policy being implemented at key decision points, long-range planning promotes the development of proactive and balanced solutions rather than relying on "quick fixes" for problems that do not lend to easy solutions.

<sup>1</sup> A review of recent statewide crime arrest and offense data indicates that Kentucky experienced a 4.2% reduction in Part One offenses (including murder, rape, robbery, aggravated assault, burglary, larceny theft, and auto theft) from 1996 to 1997 which is consistent with national trends. A comparison of Kentucky to the surrounding states of Indiana, Ohio, West Virginia, Tennessee, Georgia and South Carolina in 1996 indicates that with the exception of West Virginia, Kentucky has the second lowest rates for Part One offenses (including both violent and property offenses). Of note, a review of 1997 Part One offenses for the 42 Kentucky counties with populations greater than 25,000, indicates that these counties account for 73% of the state's population and 87% of the states Part One offenses.

## EXECUTIVE SUMMARY (CONT.)

The Council was organized in September 1998 and established a committee structure consistent with the legislative mandates of HB 455. To provide support for the efforts of this new body, the Office of the Criminal Justice Council was created under the Kentucky Justice Cabinet and established with two branches: a Long-Range Planning Branch and a Grants Management Branch (formerly the Division of Grants Management).

As an outcome of intensive committee deliberations over the past six months, a series of preliminary recommendations were developed by the six Council Committees and approved by the full membership of the Kentucky Criminal Justice Council. Through this interim report, these recommendations are being submitted to Governor Patton and the Interim Joint Committee on Judiciary in compliance with the legislative mandates set forth in the Crime Bill and serve as a starting point for the Council in its mission to improve the fair administration of justice within the Commonwealth.

Since the Council has only been in existence for a short period of time, the committees were asked to focus initial efforts on the specific studies assigned by the 1998 legislature. Overall Committee findings and recommendations, which address consideration of a Class E felony classification, hate crime, gangs and involuntary civil commitment of sexually violent predators, are presented in the following pages.

Due to time constraints, it is understood that each member reserves the right to disagree with the substance or content of any recommendation included in this report. It is also anticipated that many of the recommendations included in this report will continue to be refined and that additional recommendations will be generated by Council Committees for the upcoming legislative session. The Council's recommendations for comprehensive criminal justice reform (including revisions to the penal code) will be offered in preparation for the 2002 session of the Kentucky General Assembly.

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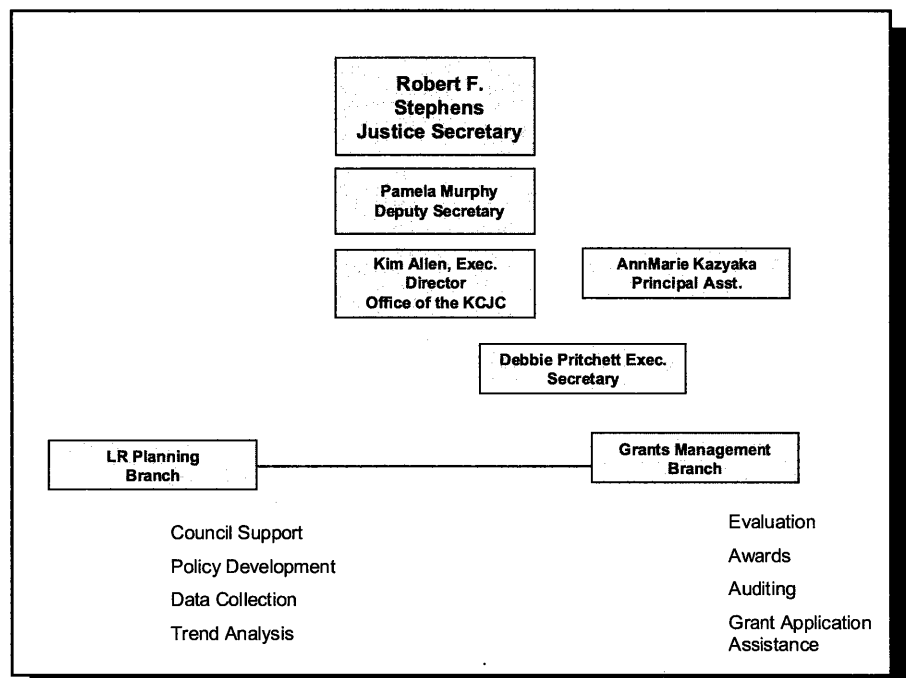
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## KENTUCKY CRIMINAL JUSTICE COUNCIL

In preparation for the work of the Kentucky Criminal Justice Council, the Kentucky Justice Cabinet was reorganized to create a new division—the Office of the Criminal Justice Council. As noted on the organizational chart, the Office of the Council was established with two branches: a Long-Range Planning Branch to support the work of the Council and the Grants Management Branch (formerly the Division of Grants Management). Under this new division, newly hired Council staff and grants management personnel were combined to ensure that the allocation of grant resources is tied to the strategic priorities established by the Governor, the General Assembly and the Council. In this manner, the Council will also have access to data and information gained through the grant administration process.



### Council Charge:

House Bill 455 (KRS 15A.040), which established the Kentucky Criminal Justice Council and its membership, also delineated its mission and duties. First and foremost, the Council is charged with long-range planning and making recommendations to the Governor and the General Assembly on criminal justice policy involving all elements of the criminal justice system and including, but not limited to, the following subjects:

- Administration of the criminal justice system;
- Rights of crime victims;
- Sentencing issues;
- Capital litigation;
- A comprehensive strategy to address gangs and gang problems; and
- Penal Code.

The Council is further charged with developing model criminal justice programs; disseminating information on criminal justice issues and crime trends; providing technical assistance to all criminal justice agencies; reviewing and evaluating proposed legislation affecting criminal justice; and assisting local communities in mobilizing community resources to address problems related to gangs. HB 455 also mandated that the Council study the following three specific issues (which are listed in the commentary following the enabling statute):

- The costs and benefits to the corrections system and to public safety by the creation of a Class E felony for certain crimes against property (findings to be reported to the Legislative Research Commission by September 1, 1999).
- The fiscal and public safety effects of involuntary civil commitments for convicted sexual predators (findings to be reported to the Legislative Research Commission by September 1, 1999).
- Issues related to hate crime (legislative recommendations to be submitted to the Interim Joint Committee on Judiciary no later than July 1, 1999).

### **Council Process:**

The Kentucky Criminal Justice Council held its organizational meeting in September 1998 and has met on six occasions. To date, the attendance and participation of both Council and committee members has been exceptional. By virtue of the enabling legislation, the Council includes broad representation from law enforcement, the courts, corrections, prosecution, the legislature, professional associations, the defense bar, a crime victim, victim advocates, and faculty members from state universities. In addition to the 28 members identified for appointment in HB 455, the Chief Information Officer for the Commonwealth, who was charged with chairing the Council's Unified Criminal Justice Information System Committee, was added by Executive Order 99-319 (March 10, 1999), bringing the total to 29 members.

The initial meetings of the Kentucky Criminal Justice Council focused on laying the foundation for its efforts by emphasizing the need for balanced and systemic solutions to justice issues and the need for data to guide decision-making and policy development. Over the course of the first four meetings, Council members received a series of state-level data presentations to educate members on the scope of crime, statewide population trends and changing demographics, and the data maintained by the Administrative Office of the Courts, the Department of Corrections, the Department of Juvenile Justice and the Kentucky State Police. Members also received a presentation by a nationally recognized criminologist, Professor Alfred Blumstein of Carnegie Mellon University, who served as a former Chair of the Pennsylvania Commission on Crime and Delinquency.

As part of its organizational activity, Council members reviewed and revised a draft mission statement to provide direction for its future work. The following mission statement was approved by the full Council at its January meeting:

“To provide the Governor and the Kentucky General Assembly with recommendations to guide decision-making and policy development on issues involving law enforcement, the courts and corrections and through research, planning and evaluation, to reduce crime and improve the fair administration of justice in the Commonwealth of Kentucky.”

### **Committee Structure:**

KRS 15A.040(8) authorized the Kentucky Criminal Justice Council to establish committees and appoint additional persons who may not be members of the Council as necessary to accomplish its purposes.



The statute specifically required the establishment of three committees: Unified Criminal Justice Information System, Committee on Sentencing, and Penal Code Committee. Following discussion, it was the consensus of Council members to combine the Committee on Sentencing and the Penal Code Committee into one body—the Penal Code/Sentencing Committee—since the topics are so closely intertwined. Along with the UCJIS Committee and the combined Penal Code/Sentencing Committee, the Council opted to establish four additional committees: Corrections/Alternatives to Incarceration, Drug Strategy, Juvenile Justice and Law Enforcement Issues.

An Executive Committee, consisting of the Chairs and Vice Chairs of the six Council committees, was also formed to serve as the leadership body for the Council. The Executive Committee has been specifically charged with developing agendas for Council meetings; identifying issues and providing direction for the efforts of the Council; serving as a gatekeeper and setting priorities for requests received from outside bodies; assigning issues to committees; and promoting coordination among the work of the committees. To date, the Executive Committee has met on three occasions to discuss organizational and procedural issues. The Executive Committee also proposed Council/Committee Standing Rules, which were adopted by the full Council at its March meeting.

### **Council Data Initiatives:**

In support of the Council's role in conducting research, disseminating information on criminal justice issues and providing data for informed criminal justice decision-making, Council staff has undertaken four initiatives. These include creating a Data Advisory Team; requesting technical assistance in implementing the Texas JUSTICE Model; contracting with a state university to conduct a statewide victimization survey; and establishing the Hate Crimes Statistics Work Group. Each of these initiatives is summarized below.

#### **Data Advisory Team**

In September 1998, Council staff formed a Data Advisory Team consisting of representatives from state level agencies who have expertise in criminal justice information systems and data management. The team was formed to provide assistance to staff in compiling data for the Council; to provide guidance on Council research projects; to provide assistance in educating Council members on the types of data available for planning purposes; and to ensure that data in Council reports is being presented in an accurate and meaningful manner.

#### **Implementation of the Texas JUSTICE Model**

Through technical assistance received from the Office of Justice Programs, the Executive Director and former Justice Secretary traveled to Austin in October 1998 to meet with staff of the Texas Criminal Justice Policy Council. As part of the visit, staff gathered information on the Texas JUSTICE Model, a computerized forecasting tool that is used to generate prison population projections. At the present, staff of the Council and the Department of Corrections is receiving technical assistance from the Texas Council to implement the model in Kentucky. The JUSTICE Model can be used to develop a statistical model of the Kentucky criminal justice system with the capacity to predict the impact of changes on each component of the system.

#### **Victimization Survey**

Since national research suggests that only one-third of crime is reported to the police, it is apparent that arrest data and offense reports do not provide a full picture of the crime problem. In order to provide a broader base of information to support the Council in its role of recommending criminal justice



policy, the Office of Council has contracted with Eastern Kentucky University to conduct a statewide victimization survey. In June 1999, a written survey will be mailed to a random sample of 18,000 Kentuckians to provide more complete information on victimization rates along with measures of the public's fear of crime and confidence in the criminal justice system. Although a national crime victimization survey is conducted annually, the size of the sample from Kentucky is too small to permit generalization of findings.

### **Hate Crimes Statistics Work Group**

The Hate Crimes Statistics Work Group was launched as a collaborative effort between the Office of the Kentucky Criminal Justice Council and the Kentucky Commission on Human Rights. The Work Group will monitor and review hate crime data; establish a process to standardize collection of anecdotal information; and publish an annual report on its findings. With knowledge that not all hate crimes are reported to the authorities, the Work Group will attempt to compile information on anecdotal incidents to provide a more comprehensive picture of the scope of this crime in the Commonwealth. The Work Group will also work in tandem with the Law Enforcement Issues Committee, which was given the assignment to study hate crime as mandated in HB 455.

### **Long-Term Projects:**

In the following sections, a summary of the activities and recommendations of each Council Committee will be presented. While a number of these recommendations address the legislative mandates enacted in HB 455, several of the mandates represent long-term projects for the Council. These include, but are not limited to, Penal Code reform, implementation of a Unified Criminal Justice Information System, and monitoring the implementation of the alternative sentencing provisions in the Crime Bill. As part of its overall mission, it is the intent of the Council to monitor and evaluate the overall implementation of the Crime Bill provisions to ensure that each is achieving the intended outcome and to report its findings and recommendations to the Governor and the General Assembly by July 1 of the year prior to each legislative session.

## CORRECTIONS/ALTERNATIVES TO INCARCERATION COMMITTEE

### **Committee Charge:**

The Corrections/Alternatives to Incarceration Committee was given two specific tasks: (1) study the fiscal and public safety effects of involuntary civil commitments for convicted sexual predators as mandated in HB 455 and (2) review and monitor the implementation of the alternative sentencing provisions of HB 455. The committee was also asked to review issues related to prison population forecasting, institutional and jail facilities, and community corrections.

### **Committee Process:**

The Corrections/Alternatives to Incarceration Committee held its first meeting in January and has met on five occasions. Three meetings were devoted exclusively to the study of involuntary civil commitment for sexually violent predators. Over the course of those meetings, committee members reviewed a wealth of information on the topic and heard a presentation by Lawrence Fitch (Director of Forensic Services, Maryland Mental Hygiene Administration), a nationally known expert in the field. The committee also heard from representatives from the various agencies in Kentucky that would be affected by the adoption of a law of this type, including the Department of Juvenile Justice, the Department for Mental Health and Mental Retardation Services, the Sex Offender Treatment Program of the Department of Corrections, the Mental Health Coalition, and the Mental Health Association of Kentucky.

The committee also conducted extensive research and reviewed materials pertaining to alternatives to incarceration. At its June meeting, members established a framework for the committee's examination of the implementation of the alternative sentencing provisions of HB 455.

### **Committee Findings and Recommendations:**

#### **Involuntary Civil Commitment for Sexually Violent Predators:**

Based on its review of the information, the Corrections/Alternatives to Incarceration Committee has identified the following findings:

Although seemingly a new phenomenon, sex offender commitment laws appeared in the 1930s. Designed to provide an alternative to imprisonment for persons found to be "mentally disordered sex offenders," these early laws were based on the belief that "sex offenders were ill and psychiatrists could cure them."

While special sex offender commitment laws were popular in the 1950s, these laws began to fall out of favor in the 1970s when the Group for the Advancement of Psychiatry (GAP), the President's Commission on Mental Health, and the American Bar Association all called for the repeal of these laws. In a monograph on the subject, the GAP came to the following conclusion: "First and foremost, sex psychopath and sexual offender statutes can best be described as approaches that have failed... The notion is naïve and confusing that a hybrid amalgam of law and psychiatry can validly label a person a 'sex psychopath' or 'sex offender' and then treat him in a manner consistent with the guarantee of community safety. The mere assumption such a heterogeneous legal classification could define treatability

and make people amenable to treatment is not only fallacious; it is startling.” By the mid-1980s, all but a few states either had repealed their laws or had halted new commitments.

A Washington State law, enacted in 1990, has served as the template for legislation pertaining to the special psychiatric commitment of sex offenders in other states. Aimed, in the language of the statute, at “a small but extremely dangerous group of sexually violent predators... who do not have a mental disease or defect that renders them appropriate for involuntary treatment pursuant to [general involuntary civil commitment law]”, this law provides for the indeterminate commitment of “any person who has been convicted of... a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.” “Mental abnormality” is defined as “a congenital or acquired condition affecting the emotional or volitional capacity, which predisposes the person to the commission of criminal sexual acts.”<sup>2</sup>

As of January 1999, fourteen other states have enacted laws similar to the state of Washington: Arizona, California, the District of Columbia, Florida, Illinois, Kansas, Minnesota, Missouri, North Dakota, New Jersey, Oklahoma, South Carolina, and Wisconsin. Legislation is pending in at least thirteen additional states.

In many states, the impetus for passage of involuntary civil commitment laws appears to have been based on the movement toward determinate sentencing. When states enacted determinate sentencing statutes, the length of sentence for each offense was generally determined by taking the average of the sentences that had been historically imposed on offenders. As a result, some offenders, who under indeterminate sentencing would have been held for long periods of time, were released after serving comparatively short sentences.

The committee has identified a number of pros and cons regarding this type of statute:

#### **Pros:**

- These laws protect citizens from persons who have committed acts of violence.
- These laws are responsive to the public demand for protection from sexually violent predators.
- The Supreme Court has declared the Kansas statute to be constitutional.
- These bills are consistent with other recent legislation, such as Megan’s Law, denying probation to persons who have committed sexual offenses, and establishing a three-year conditional discharge for sexual offenders, in that they attempt to minimize the offender’s ability to commit further crimes.
- Fourteen states have enacted such statutes, and in 1998 twenty-one states proposed such laws.
- Laws can be carefully drafted to target only repeat sex offenders who have committed acts of extreme violence.
- The number of people committed nationwide is small.
- A law can be drawn to protect the procedural due process rights of the person to be committed.
- The cost can be kept down by drafting a more restrictive statute.
- It is in society’s best interest to mandate treatment for the sexually violent predator.

#### **Cons:**

- This is a criminal justice problem, not a mental health problem.
- The standard for commitment, typically a “mental abnormality,” is difficult to determine, not recognized in the psychiatric community, and not defined in the DSM-IV.

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<sup>2</sup>The material presented thus far is taken from W. Lawrence Fitch, “Sex offender commitment in the United States,” *The Journal of Forensic Psychiatry*, Vol. 9, No. 2, September 1998. Citations contained in the body of the text have been omitted. Paragraphs have been rearranged.

- “Dangerousness” is not easily predicted, with estimated rates of accuracy as low as 33%.
- There are a variety of constitutional concerns, including: due process, ex post facto, and double jeopardy.
- Incapacitation authorizes lifetime detention of persons who have completed the service of their sentence.
- Involuntary commitment is detached from the medical model of mental illness and treatment.
- Treatment need not be either available or successful for the committed person.
- This policy may allow for commitment of persons with no mental illness, but simply an antisocial personality disorder.
- The cost is significant for many parts of the criminal justice, mental health and civil litigation systems. A review of costs in states that have adopted this policy produced estimates that range up to \$110,000 per inmate per year for housing and treatment. Additional costs that need to be considered include legal expenses related to the lengthy, annual hearings on commitment and the social and emotional costs to victims.
- The National Association of State Mental Health Program Directors has issued a policy statement contending that these laws disrupt the provision of services to individuals who are genuinely ill, that they divert scarce resources away from people in need of treatment, and that they endanger the safety of patients housed in the same facilities.
- The requirement that serious violent offenders serve 85% of their sentences, the possibility of life without parole for certain offenses, and the three-year conditional discharge for sex offenders make this unnecessary.
- KRS 202A and 202B as presently written protect the public from persons with mental illness and retardation who are dangerous to self or others.
- There are other acceptable alternatives, including: a PFO statute for sex offenders, sex offender treatment under the Department of Corrections, special parole conditions, extended periods of probation, and intensive supervision.

The case law pertaining to this question has not developed a clear precedent and decisions in federal district courts have not been consistent. In *Kansas v. Hendricks* (1997), the U.S. Supreme Court upheld the commitment of a sexually violent predator in a 5-4 decision, however, the opinion was limited to the facts presented in that case and does not authorize a broad application of the principles.

During the committee’s deliberation, representatives from the Kentucky Department of Juvenile Justice voiced opposition to a policy of involuntary civil commitment for juvenile sexually violent predators due to the inability to predict reoffense and the fact that juvenile sex offenders in the Commonwealth are already receiving treatment. The Mental Health Coalition, the Mental Health Association of Kentucky and the Kentucky Department for Mental Health and Mental Retardation Services have also voiced opposition to the involuntary civil commitment of sexually violent predators citing concerns about the impact of that practice on the Kentucky mental health system.

### **Recommendations:**

The Corrections/Alternatives to Incarceration Committee recommends that a criminal justice sentencing alternative be pursued to maximize the term of incapacitation for sexually violent predators; to prevent “revictimizing” victims by requiring their testimony in annual commitment hearings; to avoid the cost of building and maintaining a separate secure mental health facility; to avoid the substantial and frequent litigation costs for the due process hearing; and to place emphasis on holding sexually violent predators criminally responsible for their behavior.

For these reasons, the Corrections/Alternatives to Incarceration Committee recommends not to proceed

with a sexually violent predator civil commitment law and that the Kentucky Criminal Justice Council or one of its committees examine and make recommendations to enhance the sex offender criminal statutes to deal with sexual predators.

The Corrections/Alternatives to Incarceration Committee specifically recommends that the examination of the sex offender criminal statutes include a review of extending the three-year conditional discharge period and creating a persistent felony offender statute for sexual offenders.

**Pending Issues:**

- Investigation into criminal justice alternatives to involuntary civil commitment for sexually violent predators
- Review of the alternative sentencing provisions of HB 455
- Prison population forecasting
- The application of the geriatric/medical parole statute enacted in HB 455
- The use of voice identification systems in community corrections



## DRUG STRATEGY COMMITTEE

### **Committee Charge:**

The Drug Strategy Committee is charged with conducting a review of existing efforts in enforcement, treatment and prevention/education in the Commonwealth and developing a statewide drug strategy. As part of its strategy, the Committee is also charged with developing a drug-specific action plan.

The Committee was established to provide a forum in which to discuss substance abuse issues within the criminal justice system; to promote development of a comprehensive and coordinated statewide approach to address these issues; and to identify priorities for the allocation of grant funding. Based on the growing body of research documenting the relationship between substance abuse and criminal activity and the increasing number of offenders entering the criminal justice system on drug- and alcohol-related charges, it is evident that the efforts of criminal justice organizations must be integrated into a statewide continuum of services if our efforts are to be effective.

A recently released Bureau of Justice Statistics survey of inmates in state and federal correctional facilities in 1997 indicated that over 570,000 of the Nation's prisoners (51%) reported the use of alcohol or drugs while committing their offenses. Findings from a 1997 random survey of 600 Kentucky prison inmates (conducted by the Center on Drug and Alcohol Research, University of Kentucky) indicated that 92% of offenders acknowledged using illicit drugs other than alcohol in their lifetimes and 61% had used illicit drugs in the 30 days prior to incarceration. Almost eight of ten inmates (78%) reported having consumed alcohol during the 18 months prior to their incarceration.

### **Committee Process:**

The Drug Strategy Committee held its first meeting in January of this year and has met on four occasions. Over the course of its meetings, members have reviewed a broad range of information related to substance abuse and heard presentations on the status of prevention/education, treatment and enforcement initiatives in the Commonwealth. Members have also reviewed research findings, gathered information on national resources dedicated to substance abuse and developed a survey instrument to gather budgetary and programmatic data at the state level. Throughout this process, the Committee has identified a series of issues for possible inclusion in its statewide strategy.

In response to recurring discussions regarding the need for improved interdisciplinary and cross-system coordination, the Drug Strategy Committee has continually expanded its original membership to include broader criminal justice system representation and to include members representing community organizations as well as all levels of government.

On June 16-17, 1999, the Drug Strategy Committee met at Cumberland Falls State Resort Park for a strategic planning session. As an outcome of that session, the Committee identified six strategic goals along with a list of possible legislative proposals in preparation for the 2000 session of the Kentucky General Assembly. With the assistance of a facilitator, the Committee drafted the following mission statement:

“

*The Drug Strategy Committee will recommend to the full Council, the Governor, the Legislature, the criminal justice community and the people of Kentucky, strategies intended to enhance law enforcement, improve treatment and increase prevention of drug use and drug-related crimes by:*

- (1) *Reviewing current laws and assets;*
- (2) *Identifying problems and impediments to effective law enforcement, treatment and prevention;*
- (3) *Identifying successful programs worthy of replication;*
- (4) *Encouraging local initiative and leadership;*
- (5) *Providing an effective government superstructure; and*
- (6) *Raising public awareness of the magnitude of the drug problem and the need for swift action.* ”

### **Committee Strategic Goals/Recommendations:**

As an outcome of its planning process, the Drug Strategy Committee developed strategic goals across three major domains: 1) treatment, 2) prevention/education and 3) enforcement. Since the Drug Strategy Committee plans to continue meeting over the coming months, it is anticipated that its strategic goals and recommendations will continue to be refined and that additional recommendations may be offered. The following strategic goals therefore provide a starting point for the work of the Committee in its efforts to lay a strong foundation for a balanced and comprehensive statewide approach to substance abuse that goes beyond the criminal justice system and focuses on alcohol and other drug abuse as a significant public health and safety issue.

**Since the following items may result in legislative proposals, they are being included only as preliminary recommendations and are subject to modification. Criminal Justice Council members have reviewed these recommendations in draft form, but have not had the opportunity to hear a presentation by the Drug Strategy Committee, to discuss them in detail or to take any formal positions. The Council has scheduled a special meeting on July 30, 1999 to discuss the preliminary recommendations of the Drug Strategy Committee in greater detail.**

- Create an Office of Drug Control Policy attached to the Governor's Office. The Office shall establish an advisory board composed of members of the Executive, Judicial and Legislative Branches, including each agency with drug responsibilities, treatment providers, prevention experts, and two citizen representatives appointed by the Governor. The Office shall be headed by a director appointed by the Governor, who shall also serve as a member of the Kentucky Criminal Justice Council. Duties of the office shall include:
  - (1) Continuous planning and policy recommendations relating to drug abuse and drug crime;
  - (2) Coordination and provision of assistance to local judicial circuit planning, oversight and coordinating boards;
  - (3) Perform program audits and evaluations of drug enforcement, treatment and prevention efforts of the state and local authorities;
  - (4) Assist local boards in conducting an asset inventory and needs assessment relating to drug abuse and drug crimes;
  - (5) Undertake extensive public awareness activities relating to drug abuse and drug crimes;

- and
- (6) Serve as the single point of contact to collect and disseminate data and program information to state and local board, agencies and communities (report card).
- Create in each judicial circuit a local drug planning, oversight and coordinating board to assist in the implementation and coordination of drug-related activities.
- Institute a statewide system of intensive supervision and mandatory treatment including the following elements:
  - (1) Add additional dedicated Probation/Parole officers to each circuit as needed that have been trained specifically in drug-related supervision (either local or corrections);
  - (2) Assure that treatment assets exist in each community by targeting treatment items in budget allocations;
  - (3) Identify continuing funding streams including fees by participants;
  - (4) Provide for high quality screening and assessment that will identify appropriate candidates for treatment;
  - (5) Continuous monitoring and reporting including participants and overall program outcomes; and
  - (6) Establish sentencing sanctions for noncompliance with treatment while on probation or for refusal to participate in treatment. Such sanctions might include eliminating shock probation, probation, conditional discharge or other early releases; requiring 50% service of sentence for nonviolent offenders; and requiring treatment completion prior to consideration for parole.
- Promote demand reduction by concentrating education and prevention efforts on children and youth that are at increased risk of future drug use. These groups include those in high-poverty areas and children of parents who are identified as substance abusers.
- Promote demand reduction through intensive efforts to increase public awareness of the critical need for laws and policies relating to drug and alcohol use in order to protect the health and safety of adults, children and families. Effective laws and policies could include the following:
  - (1) Depict the use of illicit substances as harmful and as posing a risk to an individual's health and well-being;
  - (2) Promote the nonuse of illicit substances, tobacco and alcohol among minors;
  - (3) Promote drug-free schools, families and workplaces;
  - (4) Provide ongoing reinforcement of early prevention efforts such as DARE programs; and
  - (5) Educate the public that alcohol and tobacco use as a minor may serve as a precursor to escalated drug abuse.
- Continuous education of all professionals who deal with children and families in educational, judicial or clinical settings should include identifying substance abuse among adults and children and the existence and location of helpful resources. This continuing education may apply to social workers, teachers and school administrators, judges, attorneys (especially prosecutors and the defense bar), healthcare professionals, law enforcement personnel, and mental health professionals.

As part of its strategic planning process, the Drug Strategy Committee also identified a number of key elements across the realms of treatment, enforcement, and prevention/education that should be

incorporated into a balanced and comprehensive statewide strategy. These include the following:

### **Treatment/Intervention**

- Need for collaboration with the Parole Board to promote compliance with treatment
- Need for structured changes in the interface between treatment providers and the justice system that promote accountability
- Support for and expansion of Drug Courts and alternatives to incarceration (tailored to specific needs of communities)
- Need for offender assessment/treatment for adults and juveniles in all stages of the criminal justice system (this includes increasing the capacity for institutional treatment and addressing the growth in size of probation/parole caseloads)
- Need for standardized risk and substance abuse assessment and screening across multiple domains (including drug/alcohol risks; mental illness/dual diagnosis; brain injury; lethality risks/other patterns of offending; domestic violence; and screening out dealers who do not abuse)
- Need to expand drug treatment resources for female offenders in the adult and juvenile systems (programs need to include content aimed at adult survivors of childhood sexual abuse, domestic violence victimization and safety planning)
- Need to share training, treatment expertise, ideas and resources across disciplines and systems
- Expand outcome measures to include longer periods of being drug-free, reduce criminal activity and the concept of harm reduction
- Address policy implications of managed behavioral health plans on corrections/criminal justice
- Expand existing continuum of services
- Need to target juveniles for treatment and develop effective models
- Need for family-inclusive approaches
- Need to define outcome measures and establish mandates for data collection, data management and data analysis

### **Prevention/Education**

- Need for increased emphasis on demand reduction
- Need for public education regarding efficacy and cost of programs
- Need to raise awareness of issues related to underage use of alcohol, tobacco and drugs along with adult substance abuse
- Need to target juveniles for treatment and develop effective models
- Need for family-inclusive approaches

### **Enforcement/Prosecution**

- Support for continued efforts in marijuana eradication (Appalachian HIDTA and Governor's Marijuana Strike Force) including emphasis on indoor marijuana growing operations
- Legislation to address possession of chemicals and recipes necessary to manufacture methamphetamine
- Increase offender accountability through judicial probation reviews based upon a finding of drug involvement

### **Possible Items for Legislative Action:**

As the final component of its strategic planning process, the members of the Drug Strategy Committee

conducted a review of drug- and alcohol-related statutes (KRS Chapters 218A, 222, 244, 439, 532, and 533 along with KRS 525.100) to identify possible items for legislative action. These include the following:

- Amend KRS 218A.1432 pertaining to manufacturing methamphetamine to establish a penalty for possessing two or more chemicals and a recipe without having to prove intent to manufacture.
- Amend KRS 218A.1421 pertaining to trafficking in marijuana to reduce subsection (2) from eight to two ounces and to reduce subsection (4) from five to one pound.
- Amend KRS 218A.1423 pertaining to marijuana cultivation to make cultivation of less than five plants a Class A misdemeanor; cultivation of five to 25 plants a Class D felony, and over 25 plants, a Class C felony.
- Consider repeal of KRS 218A.276(8) relating to setting aside and voiding a conviction for possession of marijuana (in light of existing expungement statutes) or add wording to specify that that individual does not have pending charges.
- Consider drafting a money laundering statute similar to the federal statute.
- Draft enabling legislation to permit the use of electronic pen registers in the Commonwealth that would be limited to drug investigations and restrict use of equipment to pen registers that do not intercept audio transmissions.
- Consider an amendment to KRS 439 that would allow probation/parole and private vendors to assess a substance abuse treatment fee over and above the mandated supervision fee.
- Enact a statutory mandate for use of risk assessments by probation and parole officers and the Parole Board.
- Amend KRS 439 to require probation/parole to issue a supplemental report to update previous assessment and treatment information upon motions for shock probation. This would provide an opportunity for the judge to consider any changes in the offender's circumstances such as compliance or noncompliance with treatment.

## JUVENILE JUSTICE COMMITTEE

### **Committee Charge:**

In its December 1, 1997 Final Report, the Governor's Criminal Justice Response Team recommended that the Criminal Justice Council study the concept of decriminalizing status offenders and consider whether the terminology used in the Juvenile Code should be changed to be consistent with the adult criminal justice system. These two items along with issues related to prevention measures and school safety constitute the charge given to the Juvenile Justice Committee.

Along with its initial assignment, the Juvenile Justice Committee has identified several additional priorities that include disproportionate minority confinement; the need to promote improved coordination among state agencies and groups dealing with issues related to juvenile justice; and concern that youth are not being afforded legal adequate representation in the Kentucky juvenile justice system.

### **Committee Process:**

The Juvenile Justice Committee held its first meeting in February 1999 and has met on six occasions. The Committee launched its efforts by scheduling presentations on the role and mission of the Juvenile Justice Advisory Board, the Juvenile Justice Advisory Commission and the school safety initiatives of the Kentucky Department of Education. Over the course of its meetings, members have received presentations on a range of issues related to status offenders and legal representation of youth as well as the Court Designated Worker Program and the initiatives of the Department of Juvenile Justice in prevention, detention and aftercare.

As an outgrowth of the Committee's initial discussions on the concept of decriminalizing status offenders, a subgroup was created to focus specifically on this topic. To date, the Status Offender Task Force has met on two occasions to systematically discuss the possible ramifications of decriminalization of status offenders as well as options for responding to the multifaceted needs of this population. The Status Offender Task Force also reviewed model legislation from the state of Florida dealing with "children and families in need of supervision."

### **Committee Findings and Recommendations:**

- **Disproportionate Minority Confinement**

The Juvenile Justice Committee reviewed information indicating that while minority youth account for 9.6% of the total juvenile population statewide, minority youth represent 28% of juveniles in detention facilities (excluding Jefferson County). In Jefferson County, minority youth represent 60.4% of the juveniles in detention.

According to national research, many racial minorities, particularly African-Americans, Latinos and Native Americans are over-represented in juvenile justice systems. Research also suggests that race is a factor at most stages of case processing, and that minority youths experience a cumulative disadvantage as a result. The imbalance is particularly acute in secure detention settings.

- (1) The Juvenile Justice Committee supported the recent waiver request submitted by the Department of Juvenile Justice to the Office of Juvenile Justice and Delinquency Prevention to utilize \$100,000 of the 1997 Title II federal funding to conduct a statewide baseline study on disproportionate minority confinement in the juvenile justice system. The Committee recommends that every effort be made to ensure sufficient funding to allow completion of the study by January 2000.
- (2) The Juvenile Justice Committee recommends that the eight Juvenile Delinquency Prevention Councils be directed to explore disproportionate minority confinement issues within their respective jurisdictions.

#### ● Prevention Measures

The Juvenile Justice Committee is aware that the Department of Juvenile Justice has established eight Juvenile Delinquency Prevention Councils across the state in counties which have the highest percentage of juvenile arrests. While the Committee believes this represents a positive first step, the current level of funding is insufficient to meet local prevention needs and to establish councils in the remaining areas of the state.

- (1) The Juvenile Justice Committee recommends increased funding for existing Delinquency Prevention Councils to support the development of grassroots prevention programs at the local level and new funding to establish Delinquency Prevention Councils in unserved areas of the state.
- (2) The Juvenile Justice Committee recommends that local Juvenile Delinquency Prevention Councils be required to disseminate information and serve as a clearinghouse for grant information.

#### ● Status Offender Task Force

Over the course of its discussions, it was the consensus of the Task Force and the Juvenile Justice Committee that the multifaceted needs of status offenders are not currently being met in Kentucky. Although the behavior of these youth would not constitute a criminal offense for an adult, status offenders in the Commonwealth too frequently become involved in the court system and a significant number are sentenced to secure detention on contempt charges. These cases are extremely frustrating for judges who have few options or corrective resources with which to respond.

During its consideration of the concept of decriminalization, members readily identified the positive benefits of removing the stigma of a criminal offense and the ability to keep these youth out of the court system. However, the Task Force also identified a number of ways in which decriminalization could have a potentially negative impact. These included cases in which court leverage may be necessary because all diversionary options have been exhausted; the fear that decriminalization may only exacerbate existing difficulties in linking these youth with services; and the concern that decriminalization may result in status youth being charged with more serious offenses.

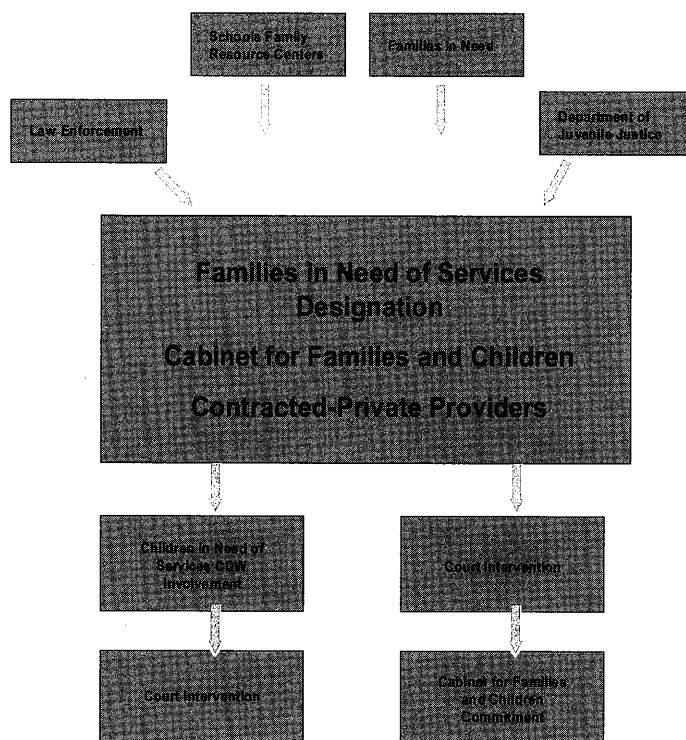
Based on a review of legislation recently passed in the state of Florida, the Status Offender Task Force believes that eliminating the designation of "status offender" and highlighting the need for services for the entire family would be a major step forward in changing the way that status offenders are handled in the court setting. Rather than viewing these youth as offenders, the change in terminology promotes viewing them as having multifaceted needs and recognizes that they frequently have a host of family problems. Additionally, since services are provided

by contract agencies under the Florida model, government is taken out of the service provider role, which may make it easier for families to seek assistance.

A number of states have eliminated the designation of "status offenders" in favor of language describing them as "children in need of supervision" or "youth in need of services." The typical array of services includes crisis stabilization, short-term casework, residential options including shelter and foster care, "school escort" services, parent training programs and truancy mediation. The Ramey-Estep Homes, Inc., Court Diversion Program in Boyd County, which recently received a federal grant to reduce the number of status offenders in secure detention, is providing "wraparound" services in a manner similar to the Florida model. Although the program has been in operation less than three months, early indicators are positive.

- (a) The Juvenile Justice Committee recommends that the concept of decriminalizing status offenders not be pursued at this time.
- (b) The Juvenile Justice Committee recommends that legislation be proposed to change the definition of status offenders to that of "child in need of services" and "families in need of services." The philosophy section of KRS 630 would also be amended to emphasize the need for appropriate non-punitive interventions for these youth and their families.

As part of the proposal, a pilot project based on the Florida model is recommended for Warren, Pike, Boone, Boyd and Jefferson Counties. Selection of these counties was based on the presence of a family court and geographic representation. This model uses private providers under contract with the state to provide services for truants, runaways and children "beyond control" at the time when problems first arise.



**Referrals into the system:** Referrals into the FINS system may come directly from law enforcement, schools, families in need, or the DJJ (families/siblings or committed children). This differs from the existing system because contact with the CDW or court is not required.

**FINS Services** — FINS services are the responsibility of the CFC; however, it is anticipated that the services will be contracted through a private provider.

**Commitment or Petition**— If FINS services fail, the child will either be referred to the CDW for future action, or committed to the CFC as a dependent child. This decision will be made based upon the reason for the FINS service failure.

**Court Involvement** — The child may be adjudicated as a CHINS, which will result in additional services being provided for the child. This entire process remains outside the delinquency system. A commitment as a CHINS would also be to the CFC; however, the service delivery system would be different from the that provided for abused and neglect children.



**Pending Committee Items:**

- Consideration of changing the terminology of the Juvenile Code to be more consistent with the adult criminal justice system

The Juvenile Justice Committee is aware that the Legislative Subcommittee of the Juvenile Justice Advisory Board is in process of developing legislative recommendations, which will likely include changes in the terminology and introductory sections of the code, and plans to monitor and review these proposals, as they become available.

- Legal representation of youth
- Coordination at the state level among juvenile justice agencies and groups
- School safety Issues
- Coordination with the Law Enforcement Committee on issues related to youth gangs

## LAW ENFORCEMENT ISSUES COMMITTEE

### **Committee Charge:**

The Law Enforcement Issues Committee was charged with addressing the Council's legislative mandates on hate crime and gangs. It has also been charged with analyzing rural crime, developing prevention programs, and developing a statewide community policing philosophy.

### **Committee Process:**

The Law Enforcement Issues Committee held its first meeting in January and has met on seven occasions. Over the course of four meetings, committee members reviewed and discussed information pertaining to the commission of hate crimes and hate crime statutes enacted around the country and in surrounding states.

The remaining meetings were devoted to a statewide examination of gang activity and the current gang statutes in Kentucky. The committee heard presentations by law enforcement officers from jurisdictions around the Commonwealth, including Louisville, Jefferson County, Lexington, Bowling Green, Covington, London, and Radcliff. In addition, Dr. Scott Decker (Professor of Criminal Justice at the University of Missouri, St. Louis), a nationally recognized expert on gangs, presented a national overview of the problem to the committee.

### **Committee Findings and Recommendations:**

#### **Hate Crimes:**

Based on a detailed review of state statutes and resource information, the Law Enforcement Issues Committee has identified the following findings:

HB 455 (KRS 532.031) created the possibility of limiting the range of sentencing options upon the finding that one of the crimes listed in the statute (e.g., rape, sodomy, kidnapping, and harassment) is primarily motivated by the race, color, religion, sexual orientation or national origin of the victim. Upon finding that a hate crime has been committed, the judge may use that finding as the sole reason for refusing to sentence the offender to probation, shock probation, conditional discharge or other form of non-imposition of a sentence of incarceration. In addition, the Parole Board may use the finding to delay or deny parole. The statute also creates the offense of Institutional Vandalism (KRS 525.113), which entails damaging, defacing, or desecrating objects that are venerated by a particular group. Under KRS 346.055, victims of hate crimes are allowed to seek compensation from the Kentucky Crime Victims Compensation Board.

Although the provisions of hate crime statutes vary from state to state, common elements can be identified. A significant number of states include a specific penalty attached to the offense and allow for civil action against hate crime offenders. While crime victims in Kentucky may, in general, take civil action against offenders, the hate crime statute does not specifically allow civil litigation against hate crime offenders.

Based on a review of the available data on hate crime, it appears that Kentucky falls in the mid-range

of surrounding states with regard to the number of hate crimes reported and the rate of hate crimes committed per 1,000 people. The majority of hate crimes in Kentucky occur in cities. It should be noted that the number of hate crimes in Kentucky might be underestimated since not all law enforcement agencies may be reporting offenses that occur in their jurisdictions.

Nationally, the motivations for hate crimes appear to be stable over time. Racial bias is the most common motivation, followed by religious bias and bias against homosexuals, bisexuals, and transgendered persons. Motivations for hate crimes in Kentucky follow a similar pattern, however the percentage of hate crimes based on racial bias appears to be significantly higher than in other states.

To obtain timely information on the perspective of prosecutors, the committee conducted a survey of Commonwealth's Attorneys. The data indicated that, to date, no cases have been prosecuted under the new statute. Most indicated that they anticipate using the statute only rarely. The majority of the respondents agreed that the statute should be amended to impose a specific penalty enhancement on offenders found to have committed a hate crime. Most believe that the enhancement should be the penalty attached to the next highest degree of the underlying offense. While most respondents did not foresee difficulties in applying the law as currently enacted, a number of potential problems were identified. These include use of the judge as a fact-finder regarding the issue of whether a hate crime has occurred; the small number of cases to which the statute will apply; and the potential for constitutional challenges.

Based on a review of the statutes and relevant information, the committee identified several concerns regarding the current statute:

- There is concern as to whether the existing statute sends a clear and strong message that hate crime is unacceptable in our communities since it does not attach a significant criminal penalty to hate crime offenses.
- No mechanism for the provision of notice to the defendant is provided in the statute. Failure to provide notice would effectively prevent the defendant from preparing and presenting an adequate defense.
- Since the statute requires the judge to be the fact-finder and sentencing agent in hate crime offenses, it would seem to require a trifurcated proceeding, which some consider an unwieldy and cumbersome process.
- The list of offenses is inadequate. It includes some offenses that seem inappropriate and fails to include offenses that would seem likely to be motivated by hate.

### **Recommendation:**

The Kentucky Criminal Justice has taken no formal position on hate crime at this time and is currently reviewing a draft statute prepared by the Legislative Research Commission.

### **Gang Statutes:**

The Law Enforcement Issues Committee has received and reviewed information, which has resulted in the following findings:

In its early discussions, the committee identified that there are inconsistent definitions of a criminal gang across agencies and jurisdictions. However, the defining element of a gang is that criminal involvement is intentionally identified as part of the group's mission or purpose. A number of states have used

definitions of gangs that were so broadly defined that they included almost every juvenile in the state. These broad definitions prevented the state from adequately addressing the problem.

During presentations, the committee learned that there are three different stages in the process of recognizing a gang problem: denial, identification, and over-identification. While gangs have been identified as far back as the 1800s, a few significant differences in contemporary gang activity can be identified. Specifically, the role of automobiles has dramatically increased the mobility of gangs and popular culture has become an important factor in the spread of gangs. In addition, offenders released from prison are also a major source of the spread of gangs.

The committee learned about membership issues pertaining to criminal gangs, including the role of legitimate activities, the lack of organization characteristic of most gangs, and issues related to violence. Relationships between gang members, non-gang peers, family, the police and the community were discussed.

A significant portion of the committee's discussion revolved around the types of crimes common among gang members. Members learned that the most common criminal offenses committed by gang members are drug offenses. Further, violence is a key feature of gang activity and is expected of all members. It occurs both within and between gangs, and is rarely directed at non-gang members. Guns are the weapons of choice.

The committee reviewed data from the 1996 National Youth Gang Center Survey. Results specific to Kentucky indicate that the percentage of white gang members is extremely high and represents one of the highest percentages reported across the country. The average age of gang members in the Commonwealth is lower than the average reported for other states. Nationally, gang problems have taken longer to develop in smaller cities, a pattern that is also consistent with Kentucky data.

According to the National Youth Gang Center data, there does not appear to be a large increase in the number of gangs over time in Kentucky. Most gangs appear to be juvenile gangs. The small size of the gangs in the state suggests that the Commonwealth is in an earlier stage of gang development than cities like Chicago, Boston, or Los Angeles.

Kentucky does indeed have gangs and gang crime, but the seriousness and nature of this problem varies across jurisdictions while present to some extent in many areas. The local nature of the problem suggests that a statewide policy would not be the most effective method of dealing with gangs, although the presence of some tools, e.g., state statutes, may be helpful.

The Committee found it difficult to evaluate the statute enacted during the last legislative session because it is so new that the criminal justice community has not had much experience with it at this point. However, law enforcement officials who presented information to the committee did not request additional statutes to assist them in dealing with the problem. Other statutes, including RICO and Kentucky laws dealing with drugs and criminal syndicates were identified as being available for use in the types of offenses committed by gang members. Moreover, these statutes may provide better tools for prosecutors and law enforcement in that they are easier to use.

### **Recommendations:**

The Law Enforcement Issues Committee recommends that KRS 506.140 pertaining to criminal gang recruitment be amended as follows:

- Add a definition of the term "criminal gang."

- The wording of subsection (1) be changed from "...entices another person to join a gang..." to "...entices another person to join a criminal gang..."

The Law Enforcement Issues Committee recommends that KRS 506.150 be revised as necessary to accommodate changes in KRS 506.140.

The Law Enforcement Issues Committee recommends that KRS 506.130 relating to furtherance of criminal gang activity be repealed, as there are other existing laws pertaining to criminal syndicates that can be employed to prosecute these offenses more effectively.

The Law Enforcement Issues Committee recommends that local communities be encouraged to develop local approaches to the gang problem using resources that include, but are not limited to, the Juvenile Delinquency Prevention Councils, the Center for School Safety, and community policing.

**Pending Issues:**

- Development of a comprehensive gang strategy
- Rural crime and crime prevention
- Development of a statewide community policing philosophy
- Gun control
- BAC levels
- Police Officers' Bill of Rights
- Police response to mentally ill individuals

## PENAL CODE/SENTENCING COMMITTEE

### **Committee Charge:**

The Penal Code/Sentencing Committee was asked to study and make recommendations on a number of substantive items including Penal Code reform and capital litigation along with structured sentencing and judge sentencing. The Committee was also given the assignment of studying the costs and benefits to the corrections system and to public safety by the creation of a Class E felony for certain crimes against property (findings to be reported to the Legislative Research Commission by September 1, 1999).

### **Committee Process:**

The Penal Code/Sentencing Committee began meeting in January 1999 and has met on a total of five occasions. The Committee initiated its work by reviewing a number of existing inconsistencies in KRS sentencing provisions that were identified by the Chair and studying the proposal for creation of a Class E felony classification. As part of its study, Committee members reviewed similar statutes from fourteen other states. The Committee also discussed a range of issues related to the collection of court costs, fines and fees and reviewed model legislation and procedures from four states.

In March, the Committee heard presentations by Professors Les Abramson and Robert Lawson regarding the status of the penal code and the process utilized by the Kentucky Crime Commission in 1971 when the original code was drafted. The Committee also heard a presentation on possible revisions to the Megan's Law provisions of HB 455 and plans to review the proposed legislative drafts of these revisions as they become available.

Based on information presented by staff of the Administrative Office of the Courts, which identified inconsistencies in existing statutes on prepayable fines, the Penal Code/Sentencing Committee is currently in the process of establishing a work group to study these issues in greater detail and report back to the full Committee with specific recommendations.

### **Committee Findings and Recommendations:**

#### **Proposal for Class E Felonies for Certain Offenses**

Following committee discussion of the proposal and review of statutes from 14 states identified as incorporating Class E felonies, it was the consensus of members that there is no compelling need at the present time to create a Class E felony classification.

The Penal Code/Sentencing Committee therefore recommends that no action be taken to create a Class E felony classification. Should difficulty be encountered in the implementation of the alternative sentencing provisions of HB 455, it might be appropriate to consider such a classification in the future for mandatory probation.

### **Issues Related to the Collection of Fines, Fees and Court Costs**

The Penal Code/Sentencing Committee finds that the current system of collecting fines, fees and court costs is unduly complicated; that there is no uniform imposition or enforcement; and that collection of some add-on fees is not tied to funding the operation of the criminal justice system. The Penal Code/Sentencing Committee is aware that the Interim Joint Committee on Judiciary is developing a proposal to address these issues and recommends that consideration be given to the following elements:

- Establishing a uniform statewide collection process;
- Consolidating costs and fees into specific categories or funds;
- Creating a priority system for application of funds paid by defendants;
- Ensuring that adequate training is provided on any changes enacted; and
- Exploring alternative avenues of funding for programs supported by fees which are not directly related to the operation of the criminal justice system.

### **Structure/Process for Penal Code Reform**

The Penal Code/Sentencing Committee recommends that a comprehensive study of the substantive criminal law (including drug offenses) be conducted with the goal of presenting recommendations to the Kentucky General Assembly for the 2002 session. The Penal Code/Sentencing Committee further recommends that funding be provided to hire appropriate staff to review the existing code and make recommendations to a small Penal Code Advisory Committee. Recommendations of the Advisory Committee would then be processed through the Council and its respective committees before being presented to the Kentucky General Assembly.

### **Collection of Fines Under KRS 534**

Based on committee discussion, it was the consensus of members that the imposition of fines across the state is somewhat erratic in that fines are uniformly imposed in some areas and rarely imposed in others. The members further concurred that the collection of other monetary requirements, such as restitution, should be given priority status.

The Penal Code/Sentencing Committee recommends that, unless mandated by another statute, KRS 534.040 and 534.030 be amended to make misdemeanor and felony fines discretionary with the sentencing court.

### **Collection of Prepayable Fines**

Based on discussion and information reviewed by members, the Committee finds that significant inconsistencies exist in the statutory language related to prepayable fines and that assessment and collection procedures vary from county to county.

The Penal Code/Sentencing Committee recommends that a work group be established to study this issue in greater detail and develop legislative recommendations for approval by the Penal Code/Sentencing Committee and ultimately for submission to the Interim Joint Committee on Judiciary. The work group will include representatives of the judiciary, clerks, law enforcement, sheriffs, the Kentucky State Police, the Department of Transportation, Fish and Wildlife, and the Legislative Research Commission.

The Penal Code/Sentencing Committee further recommends that the legislative recommendations of the Prepayable Fines Work Group be considered for inclusion in the legislative proposal being drafted by the Interim Joint Committee on Judiciary to address the collection of fines, fees and court costs. The Penal Code/Sentencing Committee respectfully requests that its members have an opportunity for input and feedback as the proposals are being developed.

### **Inclusion of Penalty Provisions within KRS Chapters**

The Penal Code/Sentencing Committee finds that the current practice of consolidating penalty provisions in separate chapters is extremely confusing and has created a number of inconsistencies in the sentencing statutes. The Committee therefore recommends that all penalty provisions be included in chapters with substantive violations and that this proposal be incorporated as an operating principle for penal code reform.

### **Inclusion of Counseling Costs in Restitution**

The Penal Code/Sentencing Committee reviewed statutes pertaining to restitution and determined that different definitions exist. The definition in KRS 532.350 includes counseling costs, while the definition in KRS 533.030(3) does not. The Committee therefore recommends that KRS 533.030(3) be amended to add "counseling costs."

### **Home Incarceration Statute**

Based on a review of statutes related to home incarceration, the Committee took notice that provisions enacted in the Crime Bill make reference to inconsistent definitions of violent felony offender as they pertain to eligibility for home incarceration. While the provisions enacted in Section 81 of the Crime Bill referenced the definition of "violent felony offense" in KRS 532.200, section 73 referenced the definition of "violent felony offender" in KRS 439.3401. The committee discussed various ways to address the statutory inconsistency and whether the proposed changes would narrow or expand the range of charges deemed eligible for home incarceration.

The following recommendation was approved by the Penal Code/Sentencing Committee by a majority vote (8-5) and approved by a majority vote of the full Council (10-8). While the majority supported the recommendation to ensure incarceration of violent offenders, members opposing the recommendation cited concerns that narrowing the range of eligible offenses would go against the spirit of the Crime Bill which mandated the implementation of alternative sentencing provisions.

The Penal Code/Sentencing Committee recommends that KRS 533.010(6)(b) be amended to add the language "subject to the provisions of KRS 532.200-532.358." This proposal eliminates the inconsistency by more narrowly defining the charges to be considered as eligible for participating in home incarceration.

### **Pending Committee Items:**

- Penal Code reform
- Legislative recommendations of the Prepayable Fines Work Group
- Review of proposed revisions to Megan's Law
- Capital litigation
- Structured sentencing and judge sentencing
- Recommendations to address the remaining inconsistencies identified in the sentencing statutes

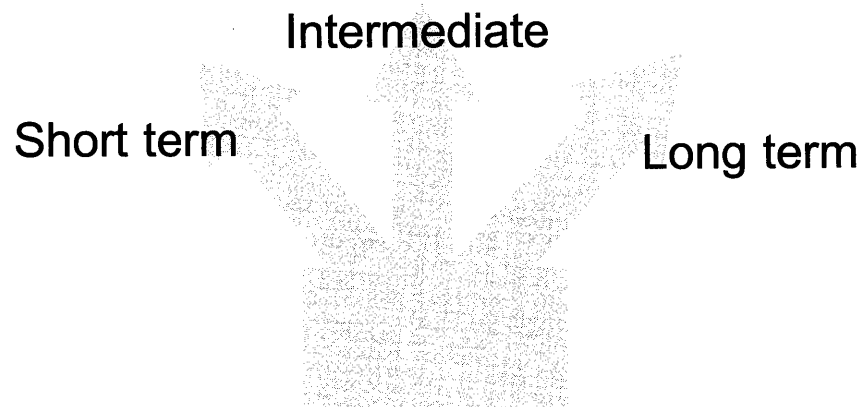


## UNIFIED CRIMINAL JUSTICE INFORMATION SYSTEM COMMITTEE

### **Committee Charge:**

The UCJIS Committee was charged by HB 455 with designing, implementing and maintaining a Unified Criminal Justice Information System. Design and implementation of this system represents an extremely complex task—a task that not only requires the creative application of significant hardware and software solutions, but equally important, one that requires the ability to develop a common language among the databases of the various criminal justice agencies. It is a task analogous to building a house in that a sound foundation must be laid before erecting the framework.

Since implementation of a statewide UCJIS system or KJIN (Kentucky Justice Information Network) involves integration of existing computer systems that can be described as ranging from “antiquated” to “state-of-the-art,” the project can best be envisioned as a work in progress on multiple tracks—short term, intermediate and long-term. Using the multiple track format, efforts can be simultaneously launched to upgrade existing agency computer systems, create new interfaces for information exchange among justice agencies, and develop a long-term integration plan.



Successful criminal justice system integration also requires the participation of both state and local government agencies. In this manner, the implementation process must proceed horizontally across state agencies as well as vertically to enhance access and participation by local justice agencies.

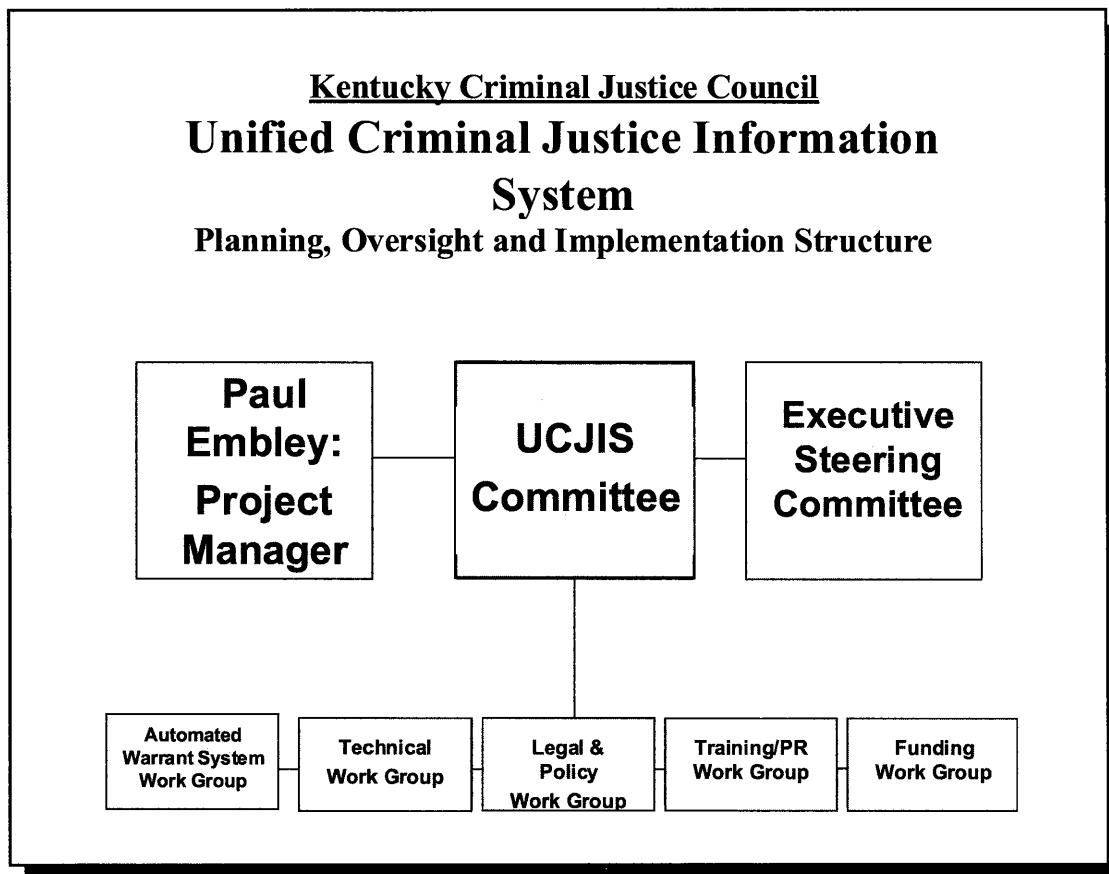
### **Committee Process:**

Although the UCJIS Committee of the Kentucky Criminal Justice Council held its first meeting in January 1999, preliminary efforts to establish a UCJIS system were initiated in the first quarter of 1998. At that time, grant funds awarded to the Administrative Office of the Courts under the Kentucky Criminal History Record Improvement Program (a five-percent set aside of funding under the Edward Byrne Memorial State and Federal Law Enforcement Assistance Program) were used to contract with the National Center for State Courts to develop a UCJIS Technical Migration Plan. At about the same

time, 1997 EMPOWER Kentucky began a series of high level meetings of agency heads directed toward UCJIS implementation.

From August 1997 through August 1998, representatives of the four key state criminal justice agencies (Administrative Office of the Courts, Kentucky State Police, Department of Corrections and Department of Juvenile Justice) met on a regular basis with national consultants to conduct an assessment of the existing infrastructure and discuss a range of implementation issues. These agency representatives became known as the Technical Work Group and developed over time into a cohesive planning group. Upon completion of the broad infrastructure examination, the consultants from the National Center for State Courts found no major obstacles to establishment of a UCJIS system within the Commonwealth.

Following the passage of HB 455 and the formation of the UCJIS Committee under the Criminal Justice Council, initial efforts were focused on transitioning the work of the Technical Work Group into the Council's committee structure. Along with Council members who opted to serve on the UCJIS Committee, additional ad hoc members were added to broaden systemic representation and to include representatives from local criminal justice agencies. The Technical Work Group was retained as a separate subgroup of the UCJIS Committee to focus on specific issues related to the integration of agency information systems.



To date, the UCJIS Committee has met on a total of six occasions. Over the course of its meetings, the Committee has focused on developing a sound organizational structure; educating members on the critical issues involved in criminal justice system integration; collecting information on state models and national efforts to facilitate UCJIS implementation; reviewing the products of initial strategic planning sessions; and completing a facilitated visioning session to further delineate the role of the committee and each of its members.

### **UCJIS Committee Accomplishments:**

Although the UCJIS Committee is not offering any specific recommendations at this time, it is anticipated that a funding request will be submitted during the 2000 session of the Kentucky General Assembly once a comprehensive project implementation plan has been approved. Using the three tracks outlined under Committee Charge, the following section will highlight the accomplishments of the UCJIS Committee to date and present activities currently under consideration for inclusion in the preliminary project plan.

#### **Short Term**

- Through the efforts of the Technical Work Group and the contract with the National Center for State Courts, an assessment of the current infrastructure and criminal justice information system environment was completed in September 1998
- Beginning in January 1999, a successful transition has been made from the Technical Work Group to the statutorily mandated UCJIS Committee and new committee members have been educated on previous efforts as well as key issues in criminal justice system integration
- As part of the education process, the UCJIS Committee recently brought Dave Roberts, Executive Deputy Director, SEARCH, to Kentucky to present a comprehensive review of criminal justice information system integration
- Committee members participated in national conferences hosted by the Department of Justice and SEARCH to gather information on UCJIS implementation efforts across the country and learned that Kentucky is at the forefront by virtue of having legislation mandating its UCJIS governance structure
- Through a comprehensive strategic planning process, a preliminary mission statement and goals/objectives have been developed
- UCJIS Committee members recently completed a facilitated visioning session to assist in clarifying the roles of committee members
- The UCJIS Project Manager, Paul Embley, has been hired to serve as the focal point for coordinating UCJIS system planning and implementation

#### **Intermediate**

- Beyond the initial environmental assessment completed in October 1998, more in-depth assessments of the needs and capabilities of criminal justice agency systems are currently being conducted by the UCJIS Project Manager
- From the perspective of the Commonwealth, UCJIS Committee members have agreed that a common set of standards is needed and to use the State Identification Number (SID) as the common identifier
- Opportunities will be identified and prioritized for system upgrades or new deployments

#### **Long-Term**

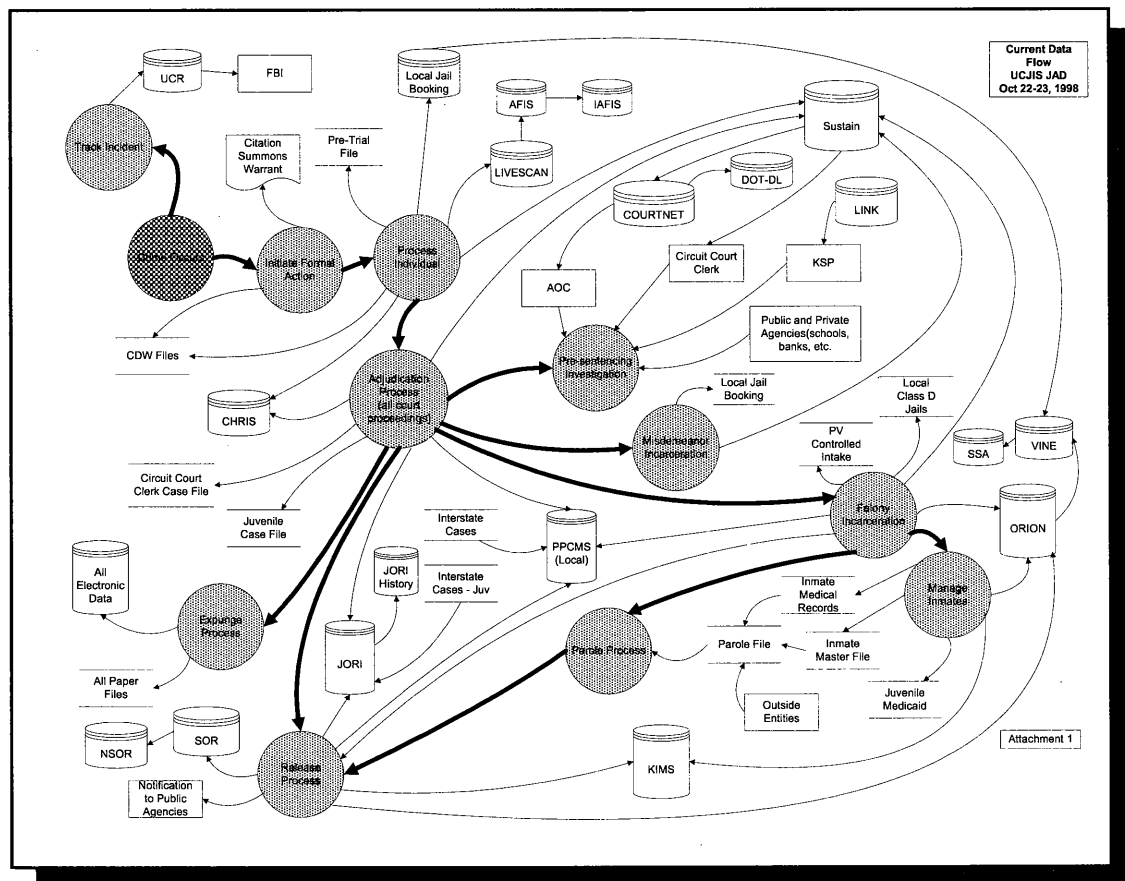
- The UCJIS Committee recently completed a facilitated visioning session to identify the desired expectations for the Kentucky Justice Information Network
- Through the participation of the UCJIS Committee Chair in the National Association of State Information Resource Executives (NASIRE), Kentucky will be participating in a federal grant project to review integration efforts across the 50 states and to move toward common architecture and common formats for providing data to the federal government

## Short Term

- Accelerate deployment of the Automated Fingerprint Identification Systems to lay a sound foundation that will generate the common state identification number for criminal history record purposes
- Upgrade the Kentucky State Police Criminal History Record Information System (CHRIS) to improve access and availability as well as achieve a cost savings through improved productivity
- Hire project managers for JORI II (Department of Juvenile Justice) and PPCMS (Probation and Parole)
- Provide funding to place CourtNet onto the Model Courthouse backbone

- Develop a jail system interface to connect the Automated Fingerprint Identification Systems into existing jail computer systems and allow for future integration with the UCJIS network
- Initiate discussion of issues related to state and local access as well as development of common data elements

- **First deliverable item:**  
Issue a Statement of Work to Strategic Alliance Services vendors to initiate a project analysis that will provide a timetable for implementation and a high level assessment of potential costs





**Juvenile Justice:**

- **Disproportionate Minority Confinement**

Every effort should be made to ensure sufficient funding to allow completion of a statewide baseline study on disproportionate minority confinement in the Kentucky juvenile justice system by January 2000.

- **Prevention Measures**

Increased funding is recommended for existing Delinquency Prevention Councils to support the development of grassroots prevention programs at the local level and new funding is recommended to establish Delinquency Prevention Councils in unserved areas of the state.

It is recommended that local Juvenile Delinquency Prevention Councils be required to disseminate information and serve as a clearinghouse for grant information.

- **Decriminalization of Status Offenders and Status Offender Pilot Project**

It is recommended that the concept of decriminalizing status offenders not be pursued at this time.

Legislation is recommended to change the definition of status offenders to "children in need of services" and "families in need of services." The philosophy section of KRS 630 would also be amended to emphasize the need for appropriate non-punitive interventions for these youth and their families.

A pilot project based on the Florida model is recommended to provide services for truants, runaways and children "beyond control" at the time when problems first arise.

**Law Enforcement Issues:**

- **Hate Crime**

The Kentucky Criminal Justice Council has taken no formal position on hate crime at this time and is currently reviewing a draft statute prepared by the Legislative Research Commission.

- **Gangs**

It is recommended that KRS 506.140 relating to criminal gang recruitment be amended to add a definition of the term "criminal gang" and to change the wording of subsection (1) to read "...entices another person to join a criminal gang..."

It is recommended that KRS 506.150 be revised as necessary to accommodate changes in KRS 506.140.

It is recommended that KRS 506.130 relating to engaging in furtherance of criminal gang activity be repealed and that communities be encouraged to develop local approaches to the gang problem using resources that include, but are not limited to, the Juvenile Delinquency Prevention Councils, the Center for School Safety, and community policing.

**Penal Code/Sentencing:**

- **Proposal for Class E felonies for Certain Offenses**

It is recommended that no action be taken to create a Class E felony classification at this time (see recommendation #16).

- **Issues Related to the Collection of Fines, Fees and Court Costs**

Legislation being drafted to address these issues should establish a uniform statewide collection process; consolidate costs and fees into specific categories or funds; create a priority system for application of funds paid by defendants; ensure that adequate training is provided on any change enacted; and explore alternative avenues of funding for programs supported by fees which are not directly related to the operation of the criminal justice system.

- **Structure/Process for Penal Code Reform**

It is recommended that a comprehensive study of the substantive criminal law (including drug offenses) be conducted with the goal of presenting recommendations to the Kentucky General Assembly for the 2002 session.

- **Collection of Fines Under KRS 534**

Unless mandated by another statute, KRS 534.040 and 534.030 should be amended to make misdemeanor and felony fines discretionary with the sentencing court.

- **Collection of Prepayable Fines**

Establish a Prepayable Fines Work Group to study the issue and present legislative recommendations to the Interim Joint Committee on Judiciary for incorporation into proposed legislation dealing with court costs, fines and fees.

- **Inclusion of Penalty Provisions within KRS Chapter**

It is recommended that all penalty provisions be included in chapters with substantive violations and that this proposal be incorporated as an operating principle for penal code reform.

- **Inclusion of Counseling Costs in Restitution**

Address current statutory inconsistencies in the statute pertaining to restitution by amending KRS 533.030(3) to add "counseling costs."

- **Home Incarceration Statute**

Address current statutory inconsistencies pertaining to eligibility for home incarceration by amending KRS 533.010(6)(b) to add the language "subject to the provisions of KRS 532.200-532.358."

## APPENDIX: C

### POSITION PAPER ON GANGS

#### **Recommendations:**

The Law Enforcement Issues Committee recommends that KRS 506.140 relating to criminal gang recruitment be amended as follows:

- Add a definition of the term “criminal gang.”
- The wording of subsection (1) be changed from “...entices another person to join a gang...” to “...entices another person to join a criminal gang...”

The Law Enforcement Issues Committee recommends that KRS 506.150 be revised as necessary to accommodate changes in KRS 506.140.

The Law Enforcement Issues Committee recommends that KRS 506.130 relating to engaging in furtherance of criminal gang activity be repealed, as there are other existing laws pertaining to criminal syndicates that can be employed to prosecute these offenses more effectively.

The Law Enforcement Issues Committee recommends that local communities be encouraged to develop local approaches to the gang problem using resources that include, but are not limited to, the Juvenile Delinquency Prevention Councils, the School Safety Center, and community policing.

#### **Rationale:**

The Law Enforcement Issues Committee heard from law enforcement officers from across the state, listened to a presentation from a nationally known expert on the subject of gangs, and reviewed pertinent literature. Based on this examination, they identified several key issues that form the basis of their recommendations.

- Kentucky does indeed have gangs and gang crime. The seriousness and nature of this problem varies across jurisdictions, but is present to some extent in many jurisdictions.
- Local solutions to the gang problem are required. The local nature of the problem suggests that a statewide policy would not be the most effective method of dealing with gangs, although the presence of some tools, e.g., state statutes and funding for Juvenile Delinquency Prevention Councils, will be helpful.
- Gangs in Kentucky are primarily composed of juvenile members. Youth gangs have little formal structure, few key leaders and few internal rules. In short, they are not well organized. Moreover, most criminal activity in gangs is committed by individuals, rather than under the auspices of the gang. Therefore, statutes aimed at individual behavior will be effective in the prosecution of most crimes committed by gang members.
- Other statutes currently in place, including the federal RICO laws and Kentucky statutes dealing with drugs and criminal syndicates can be used more effectively for the prosecution of the offenses committed by more organized gangs.



- A specific definition of “criminal gang” is necessary for the successful prosecution of a gang recruitment statute. A number of states have used definitions of gangs that were so broadly defined that they potentially could have included almost every juvenile in the state. These broad definitions prevented the state from adequately addressing the problem. The current Kentucky statute does not contain a definition.

**Fiscal Impact:**

The ability to more successfully prosecute gang offenders may lead to a higher incarceration rate.

## UNIFIED CRIMINAL JUSTICE INFORMATION SYSTEM POSITION PAPER

### **Legislative Charge:**

The UCJIS Committee of the Kentucky Criminal Justice Council was charged by HB 455 with designing, implementing and maintaining a Unified Criminal Justice Information System. Development of the system requires integration of existing computer systems ranging from “antiquated” to “state-of-the-art” to create new interfaces for information exchange as well as access to data by justice agencies along with other public and private users.

### **Project Description:**

Design and implementation of this system requires the creative application of hardware and software solutions along with the ability to develop a common language among the databases of the various criminal justice agencies. Since the databases of each agency were initially established for in-house purposes rather than cross-system analysis, there are currently no common definitions or standards for data elements.

The overall task is analogous to building a house. At the present, most of the rooms have been started and are in various stages of completion; however, the process has involved different builders, different techniques and variation in the quality of construction. A foundation must be built while simultaneously maintaining the current structure and fixing the rooms that are in need of immediate repair. The ultimate goal is to make the assortment of individual rooms look like a single structure.

### **Key Elements of the Project:**

- A major component of UCJIS implementation is the SID (State Identification Number) which provides a foundation for the project by creating a common numeric identifier for offenders being tracked through the system.
- Overall project implementation will proceed on three tiers: immediate wins, short term wins (that can be done while working on the third tier), and the long-term plan which includes the development of standards. It is anticipated that the \$5 million legislative appropriation will fund some immediate wins on the first tier; one or two short-term wins on the second tier; and the planning portion of the third tier.
- Along with the tier model, the implementation process must proceed horizontally across state agencies as well as vertically to enhance access and participation by local justice agencies.

### **System/Fiscal Impact:**

A critical element of successful implementation involves collaborative and cooperative efforts of stakeholder agencies over the course of the integration process. In this manner, the members of the UCJIS Committee and its work groups must be able to come to consensus, negotiate compromise, manage the change process, develop trust and maintain positive working relationships.

In addition to funding for initial start-up and integration purposes, funding will be required for on-going maintenance of the UCJIS system. In the state of North Carolina, initial project costs are estimated at \$42 million while on-going maintenance costs are expected to total nearly \$7 million annually.

## POSITION PAPER ON INVOLUNTARY CIVIL COMMITMENT FOR SEXUALLY VIOLENT PREDATORS

### **Recommendations:**

The Corrections/Alternatives to Incarceration Committee recommends that a criminal justice sentencing alternative be pursued to maximize the term of incapacitation for sexually violent predators; to prevent “revictimizing” victims by requiring their testimony in annual commitment hearings; to avoid the cost of building and maintaining a separate secure mental health facility; to avoid the substantial and frequent litigation costs for the due process hearing; and to place emphasis on holding sexually violent predators criminally responsible for their behavior.

For these reasons, the Corrections/Alternatives to Incarceration Committee recommends not to proceed with a sexually violent predator civil commitment law and that the Kentucky Criminal Justice Council or one of its committees examine and make recommendations to enhance the sex offender criminal statutes to deal with sexual predators.

The Corrections/Alternatives to Incarceration Committee specifically recommends that the examination of the sex offender criminal statutes include a review of extending the three-year conditional discharge period and creating a persistent felony offender statute for sexual offenders.

### **Rationale:**

Upon a comprehensive review of the literature and information presented by relevant experts, the Corrections/Alternatives to Incarceration Committee has recommended implementation of a criminal justice alternative to involuntary civil commitment, based on the following issues:

- This is a criminal justice problem, rather than a mental health issue. Incapacitation, rather than the provision of treatment, is the primary focus of this policy. Therefore, the problem of dealing with sexually violent predators properly belongs in the sentencing arena.
- Overall, implementation costs are high. A review of costs in states that have adopted this policy produced estimates that range up to \$110,000 per inmate per year for housing and treatment. Additional costs that need to be considered include legal expenses and the lengthy, annual hearings on commitment.
- National and state mental health agencies and organizations have issued statements in opposition to this policy. They contend that these laws disrupt the provision of services to individuals who are genuinely ill, they divert scarce resources away from people in need of treatment, they endanger the safety of patients housed in the same facilities, and they jeopardize the integrity of the civil commitment process.
- Although the Supreme Court upheld the Kansas statute by a narrow margin, there remain concerns regarding these statutes that have not been fully addressed by the courts, including questions surrounding due process, double jeopardy, and the prohibition against ex post facto laws. The Kansas opinion was limited to the facts presented in that case and does not authorize a broad application of the principles.
- Since the Commonwealth does not operate under a determinate sentencing system, serious

offenders can be held for longer periods of time. HB 455 enhanced the Commonwealth's ability to hold sex offenders accountable by requiring those who commit violent offenses to serve 85% of their sentences, by providing life without parole for certain offenses, by requiring that sex offenders complete treatment prior to becoming eligible for parole or to earn good time, and by mandating a 3-year conditional discharge for sex offenders. In addition, the statute established procedures for public notification of the release of sex offenders which can be further enhanced to monitor and track offenders in the community.

- Annual involuntary commitment proceedings, which are required to extend the period of commitment, would unnecessarily traumatize victims, forcing them to repeatedly relive the crime and preventing them from obtaining a sense of closure.
- Rather than targeting offenders with diagnosable mental disorders, the involuntary civil commitment statutes allow for the commitment of individuals based on vague definitions of "mental abnormality."

### **System/Fiscal Impact:**

As noted above, the fiscal impact of enacting an involuntary civil commitment statute for sexually violent predators would be significant. The fiscal impact of the various criminal justice alternatives will be prepared in the process of examining these options and released with future recommendations.

## STATUS OFFENDER PILOT PROJECT POSITION PAPER

### **Recommendation:**

The Juvenile Justice Committee recommends that legislation be proposed to change the definition of status offenders to “children in need of services” and “families in need of services” and to amend the philosophy section of KRS 630 to emphasize the need for non-punitive interventions for these youth and their families. As part of the proposal, a pilot project based on the Florida model is recommended for Warren, Pike, Boone, Boyd and Jefferson Counties.

### **Rationale:**

It is the consensus of the Juvenile Justice Committee and the Status Offender Task Force (a subgroup of the Committee) that the multifaceted needs of status offenders are not currently being met in Kentucky. Although the behavior of these youth would not constitute a criminal offense as an adult, status offenders in the Commonwealth too frequently become involved in the court system and a significant number are sentenced to secure detention on contempt charges. These cases are extremely frustrating for judges who have few options or resources with which to respond.

A number of states have eliminated the designation of “status offenders” in favor of language describing them as “children in need of supervision” or “youth in need of services.” Rather than viewing these youth as offenders, the change in terminology recognizes that these youth are typically contending with a host of individual and family problems. Members of the Juvenile Justice Committee and Status Offender Task Force believe that highlighting the need for services for the entire family would be a major step forward in changing the way that status offenders are handled by the Kentucky juvenile justice system.

### **Pilot Project Description:**

Under the Florida model, the government contracts with private agencies to provide services for truants, runaways and children “beyond control” at the time when problems first arise. The typical array of services includes crisis stabilization, short-term casework, residential options including shelter and foster care, “school escort” services, parent training programs and truancy mediation. The Ramey-Estep, Inc., Court Diversion Program in Boyd County, which recently received a federal grant to reduce the number of status offenders in secure detention, is providing “wraparound” services in a manner similar to the Florida model. Since government is taken out of the service provider role, it may ultimately make it easier for families to seek assistance.

### **System/Fiscal Impact:**

The Status Offender Task Force is currently in process of refining its recommendations and developing an estimated budget for the pilot project. Since it is the goal of the pilot project to intervene at the earliest opportunity and divert status offenders from the juvenile justice system, a collaborative effort will be required among social services, the Court Designated Worker Program, the school system, private providers and other involved agencies at the community level to promote successful early intervention.

## APPENDIX: D

### COUNCIL COMMITTEE MEMBERSHIP ROSTERS

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Justice Fellowship

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Kentucky Jailers Association

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35<sup>th</sup> Judicial District

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Bourbon County Attorney's Office

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The Honorable William Mains  
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Law Operations Division  
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Department of Corrections

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Fraternal Order of Police

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Cabinet for Families & Children

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Crime Victim

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Victims' Advocacy Division  
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Public Advocate

The Honorable Tom Lockridge  
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Shively Police Department

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Department of Public Advocacy

Jack Ellis, Branch Manager  
Information & Technology Branch  
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Paul Embley, Project Manager  
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Information System

Jailer Gary Gilkison  
Kentucky Jailers Association

The Honorable Cicely Lambert, Director  
Administrative Office of the Courts

Janice Marshall  
Kentucky Association of  
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Debra Miller, Executive Director  
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The Honorable George Moore  
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The Honorable Virginia Whittinghill  
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Department of Juvenile Justice

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**Hate Crimes Statistics Work Group**

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Kentucky Commission on Human Rights

Stan Beauchamp, Executive Director  
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Sandra Noble Canon, Executive Director  
National Conference for  
Community & Justice

Janice Carter  
NAACP

Rolland Davis, Member  
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on Human Rights

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Colonel Ron Ricucci  
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City of Louisville

Sheldon Rox, Field Office Supervisor  
Kentucky Commission on Human Rights

Lieutenant Mike Smith, Commander  
Information Services  
Kentucky State Police

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Human Relations Commission  
Hopkinsville, Kentucky

The Honorable David Welch  
Attorney at Law

Captain Jerry Wells  
Section Commander  
Bowling Green Police Department

## APPENDIX: E

### COUNCIL COMMITTEE REFERENCE LISTS

#### CORRECTIONS/ALTERNATIVES TO INCARCERATION

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